

JULY 26, 2002

**SCHAKOWSKY: "THE DEPARTMENT OF HOMELAND SECURITY SHOULD NOT BECOME THE DEPARTMENT OF HOMELAND SECRECY"**

WASHINGTON, D.C. - U.S. Representative Jan Schakowsky (D-IL) tonight said that the bill to create a Homeland Security Department is a "20th Century solution to a 21st Century problem." Schakowsky, who voted against H.R. 5005, said the bill weakens civil service protections for workers and grants liability exemptions for manufacturers of defective anti-terrorism devices.

Schakowsky also warned that corporations would use the new broad secrecy provisions in H.R. 5005 that exempts them from the Freedom of Information Act (FOIA) to escape liability and hide information critical to protecting public safety. Under current law, the Administration can refuse to disclose information that involves national security or trade secrets. H.R. 5005 goes far beyond current law, providing a blanket exception any time corporation provide voluntary information to the Department of Homeland Security.

"The Department of Homeland Security should not become the Department of Secrecy," said Schakowsky, who offered an amendment to the bill to remove the provision, which exempts corporations from FOIA and shields them from state and local open records laws. The House did not approve the amendment.

She added, "The Freedom of Information Act is a law carefully crafted to balance the ability of our citizens to access information with the need to protect sensitive information from disclosure."

Schakowsky has repeatedly asked the FBI and Department of Commerce for an example when a federal agency under current FOIA guidelines has disclosed voluntarily submitted data against the express wishes of the industry that submitted the information.

"They could not name one case," she said. "Instead we are told that corporations just don't feel 'confident', that FOIA rules just aren't 'conducive' to disclosure, and industry isn't 'comfortable' releasing data needed to protect our country."

"We are asking businesses to do their patriotic duty and disclose vulnerabilities that could endanger the American people. When that information is confidential and deserves to be protected, current law protects it," Schakowsky concluded.

Schakowsky's amendment also would have expanded whistle-blower protections by giving whistleblowers the right to go to court instead of going through the administrative process. It would have required the same burden of proof be used in whistleblower cases as in all other cases involving personnel actions.

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"Whistle-blower protections currently available simply aren't working. Many whistle-blowers suffer retaliation, and often lose their job or are demoted as punishment for speaking out.□ We must offer real teeth to protections against retaliation for whistle blowers," Schakowsky said.

Below is Schakowsky's Congressional Record statement.

**Congressional Record Statement of U.S. Representative  
Jan Schakowsky on the Homeland Security Act of 2002**

Mr. Speaker, I rise in opposition to the measure we are considering today, the Homeland Security Act of 2002. Since September 11, it has become abundantly clear that we must change the way we conduct national security in this country and we must address our security shortfalls with aggressive, decisive actions.□ We all agree we must do more to protect our country from threats posed by those who wish us harm and those who wish to alter the way we live our lives.□ There is no question that all members want to protect the American public.□ Unfortunately, the bill we are considering today does not take the right approach to accomplishing that goal.□□

At the outset of this process, I said that any new proposal to address our national security shortfalls must pass three basic tests.□ First, the plan must actually make us safer.□ Second, the plan must not compromise our precious civil liberties or rights.□ Finally, the critical non-security functions of government entities must not be compromised.□ This legislation fails to adequately address those critical tests.□

The bill before us today creates a new Department of Homeland Security.□ As we debated the bill originally proposed by the Administration, we were able to make several significant improvements to it.□ I am pleased that the legislation includes a provision establishing an Office of Civil Rights and Civil Liberties within the new department.□ I offered an amendment to accomplish that goal during the Government Reform Committee's consideration of this bill and was glad to see that provision maintained.□□

I would also like to draw my colleagues' attention to the issue of immigration and the organization of immigration services.□ I come from an immigrant-rich district.□ Their contributions to our community demonstrate how important it is to ensure that newcomers to this country are received in a fair and considerate manner.□ It is critical that, however immigration and naturalization services are structured, the quality and efficiency of the services offered to immigrants are not compromised, and are in fact improved.□

For that reason, I have worked hard to help secure various provisions in this bill that will provide immigrants with a place to turn if they have complaints and will hold immigration officials accountable for doing their job with diligence and fairness.□ First, this bill establishes an Ombudsman's office to assist individuals and employers in resolving problems with citizenship and immigration services.□

Second, this bill would require the new Bureau of Citizenship and Immigration Services to report on how it is handling its immigration caseload. This provision includes reporting requirements on how many applications the Bureau receives and how many it is able to process; how it is addressing the enormous backlog that exists; and whether people requiring immigration and naturalization services have adequate access to the Bureau and the services it offers. These are critical data that will allow us to hold this new Bureau accountable for addressing the concerns that have been raised over the years about how the INS has performed its duties.

While the improvements made to the bill are important, there are a number of serious problems with this legislation that force me to vote against it.

This bill gives broad new authority to the President to reorganize the massive federal workforce created by this legislation. The bill gives the President an excuse to disregard and to take away hard-won civil service protections and collective bargaining rights for employees of the new Department.

At a time when agencies throughout the federal government - in Washington, D.C. and in cities across the country - are having difficulty attracting and retaining qualified employees, this bill could turn employees of the new department into second class workers. What kind of a signal will we send to those federal workers if we ask them to move and tell them that they will lose many of the guaranteed rights that they now enjoy? How many of those workers will decide to leave federal service and move to the private sector? For those workers who do stay, how can we expect them to demonstrate high morale and commitment when they know that they lack the same rights as their federal colleagues in other agencies?

Congress enacted civil service protections and collective bargaining rights so that we could attract the very best to government service. We should not give this or any other Administration the right to take them away. As we stand together to fight terrorism, we should also stand together for the rights and well being of federal workers.

The House also missed an opportunity today to provide real protections for whistle-blowers. I offered an amendment that would guarantee American patriots who come forward to expose improprieties and threats to our security a guarantee that, if they are retaliated against for their actions, they will have a right to legal recourse. Sadly, under the current inadequate whistle-blower provisions in the bill, those who risk their future to shed light on issues of concern to the public will have no guarantees and no real protection. By withholding very basic rights and protections for whistle-blowers, we are actually subjecting the American public to greater risk because those with information that should be shared with Congress or the public will be reluctant to do so--leaving us in the dark about threats we might otherwise be able to eliminate.

This bill creates an exclusion from the Freedom of Information Act to all information dealing with infrastructure vulnerabilities and is voluntarily submitted to the new department. This is an unnecessary provision because, under current law, the

government already has the authority to exempt from FOIA information that meets one of several standards, including that which is related to national security and trade secrets. While the current law simply requires the Administration to review information voluntarily submitted for possible exemptions from FOIA, this bill provides a blanket exclusion, thereby removing the discretion of the Administration completely. Even worse, the same section of the bill preempts state and local good government and openness laws.

This bill also exempts committees created by the Secretary of Homeland security from the Federal Advisory Committee Act. This would allow the Secretary to create secret forums where lobbyists for all sorts of special interests could push their agendas with the Administration without concern that the public would find out and regardless of whether their discussions are about security or business goals.

The legislation before us today negates the Congressionally-mandated requirement that all airports have the ability to screen checked baggage for explosives. One of our most frightful and realistic vulnerabilities is the status of our air travel system in this country. It is a sad message to send to our constituents and the flying public that we are not willing to do what it takes to ensure the skies are truly safe. Many on the Republican side have argued that the task of providing equipment to secure our planes and prevent terrorist devices from making their way on board is too costly. I would submit that we cannot afford to do otherwise.

Finally, this bill is flawed because it provides an exemption from liability for manufacturers of equipment used for national security purposes. This broad protection for industry would apply even if company officials willfully neglect the welfare of the public in order to make profits. If a new bomb detection machine company knows that its product is not reliable but does not inform the government, we will not be able to seek legal recourse if that company's product, as anticipated by company officials, fails to work and leads to loss of life.

September 11 made us all painfully aware of the limitations of our current national security and anti-terrorism apparatus. We have become painfully aware of the shortcomings of the FBI and CIA. And we have become painfully aware of the need to act decisively to correct our flawed system.

If we want to be able to prepare our nation and to guarantee America's security, we must improve communication, invest in language translation capabilities, invest in our public health infrastructure, provide necessary training and resources to emergency first responders and focus on improving the capabilities and the capacity of state and local authorities, and more. Moving the boxes from one agency to another will not accomplish these important tasks.

Unfortunately, this bill fails to address even the most obvious and immediate concerns. Instead, what the President and the Republicans in the House put forth is a massive reorganization of the federal government, nothing more than a reshuffling of the deck,

**with a few added tools for the Administration. Simply shifting people and agencies will not make America safer and that is all we will accomplish if we pass this bill. I urge all members to reject this flawed legislation and to focus on efforts that will actually enhance our security and maintain our American way of life.**